



City of Marietta Meeting Minutes CITY COUNCIL

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

William B. Dunaway, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Holly Marie Walquist, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, July 8, 2009

7:00 PM

Council Chamber

Presiding: William B. Dunaway

Present: Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Holly Walquist, Grif Chalfant, Annette Lewis and Van Pearlberg

Also Present:

William F. Bruton, City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor Dunaway called the meeting to order at 7:08 p.m.

INVOCATION:

Mayor Dunaway called upon Council member Goldstein to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Dunaway called upon Bill Bruton, III, son of City Manager Bill Bruton, to lead the Pledge of Allegiance.

PRESENTATIONS:

PROCLAMATIONS:

20090717 Parks and Recreation Month

Presentation of a Proclamation to Rich Buss, designating July as "Parks and Recreation Month."

Presented.

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE
MAYOR, COUNCIL AND/OR CITY MANAGER:**

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

-Under Ordinances: Agenda items 20090603, 20090604 and 20090605 were added to the consent agenda.

-Under Judicial/Legislative: Agenda item 20090620 was amended to read, "Restriction as to use of access are as follows: 1) The access shall be gated 2) The gates shall remain closed at all times, especially from 7:00 a.m. to 9:30 a.m. and 4:00 p.m. to 7:00 p.m., Monday through Friday; Excepting only, that the gates may remain open and access is permitted for Church events such as Sunday worship services, Wednesday worship services, and other like events occurring at the Church."

-Under Other Business: Agenda items 20090705, 20090726, 20090468, 20090724, 20090725 were added to the consent agenda. Agenda item 20090660 was amended to read, "The tree shall be located elsewhere on the property. Additionally, the entire site shall remain subject to the Tree Ordinance."

Mayor Dunaway opened the public hearing for items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

A motion was made by Council member King, seconded by Council member Coleman, to approve the consent agenda as modified. The motion unanimously carried by the following vote:

Vote: 7 - 0 - 0

Approved

-Council member Goldstein abstaining on agenda items 20090672, 20090673, 20090674, 20090679, 20090682, 20090684, 20090685, 20090686, 20090688, 20090689, 20090693, 20090694, 20090699, 20090701, 20090625, 20090710, and 2009071

MINUTES:

*** 20090708 Regular Meeting - June 10, 2009**

Review and approval of the June 10, 2009 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:****ORDINANCES:**

20090600 Z2009-11 Judson C. Thompson 553 East New Salem Commons[Ord 7340](#)

Z2009-11 [REZONING] JUDSON C. THOMPSON request rezoning for property located in Land Lot 02880, District 20, Parcels 21 and 34, 2nd Section, Marietta, Cobb County, Georgia and being known as 553 East New Salem Commons from R-20 [Single Family Residential (Cobb County)] to R-1 [Single Family Residential (City)]. Ward 4.

Mayor Dunaway opened the public hearing. Seeing no one wishing to speak, the public hearing was closed.

Motion to approve the rezoning request for property located at 553 East New Salem Commons, with the following stipulations incorporated as a condition of zoning:

·That the driveway from East New Salem Commons shall be paved.

·The spillway shall initially be constructed using asphalt millings; however, shall be paved prior to the issuance of the Certificate of Occupancy. Additionally, the grade to the spillway shall be flattened out to be accessible by normal vehicles.

A motion was made by Council member King, seconded by Council member Pearlberg, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 4 - 2 - 1

Approved as Stipulated

Vote Against: Rev. Anthony Coleman and Holly Walquist

Abstain: Grif Chalfant

20090601 A2009-02 Judson C. Thompson 553 East New Salem Commons[Ord 7341](#)

A2009-02 [ANNEXATION] JUDSON C. THOMPSON request annexation for property located in Land Lot 02880, District 20, Parcels 21 and 34 and being known as 553 East New Salem Commons, 2nd Section, Cobb County, Georgia consisting of 1.98 acres. Ward 4.

Mayor Dunaway opened the public hearing. Seeing no one wishing to speak, the public hearing was closed.

A motion was made by Council member King, seconded by Council member Pearlberg, that this matter be Approved. The motion carried by the following vote:

Vote: 4 - 2 - 1

Approved

Vote Against: Rev. Anthony Coleman and Holly Walquist

Abstain: Grif Chalfant

20090602 CA2009-04 Judson C. Thompson 553 New Salem Commons[Ord 7342](#)

CA2009-04 [CODE AMENDMENT] JUDSON C. THOMPSON in conjunction with the requested annexation of property located in Land Lot 02880, District 20, Parcels 21 and 34, 2nd Section, Marietta, Cobb County, Georgia, and being

known as 553 East New Salem Commons, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 4.

Mayor Dunaway opened the public hearing. Seeing no one wishing to speak, the public hearing was closed.

A motion was made by Council member King, seconded by Council member Pearlberg, that this matter be Approved. The motion carried by the following vote:

Vote: 4 - 2 - 1

Approved

Vote Against: Rev. Anthony Coleman and Holly Walquist

Abstain: Grif Chalfant

* **20090603**

[Ord 7343](#)

Z2009-12 City of Marietta (for Vickley L. Raeford) 1388 Canton Highway

Z2009-12 [REZONING] CITY OF MARIETTA (FOR VICKLEY RAEFORD) request rezoning for property located in Land Lot 08740, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia and being known as a portion of 1388 Canton Highway from GC [General Commercial (County)] to CRC [Community Retail Commercial (City)]. Ward 6.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20090604**

[Ord 7344](#)

A2009-03 City of Marietta (for Vickley L. Raeford) 1388 Canton Highway

An annexation for property located in Land Lot 08740, District 16, Parcel 0290 and being known as a portion of 1388 Canton Highway, 2nd Section, Cobb County, Georgia consisting of 0.08 acres. Ward 6.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20090605**

[Ord 7345](#)

CA2009-05 City of Marietta (for Vickley Raeford) 1388 Canton Highway

CA2009-05 [CODE AMENDMENT] CITY OF MARIETTA (FOR VICKLEY RAEFORD) in conjunction with the requested annexation of property located in Land Lot 08740, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia, and being known as a portion of 1388 Canton Highway, the City of Marietta proposes to designate the Future Land Use of said property as IW (Industrial Warehousing). Ward 6.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

20090606

[Ord 7346](#)

Z2009-13 MRW Properties, LLC 313 Marble Mill Road

Z2009-13 [SPECIAL LAND USE PERMIT] MRW PROPERTIES, LLC request Special Land Use Permit (to operate a plastic recycling facility) for property

located in Land Lot 1005, District 16, Parcel 28, 2nd Section, Marietta, Cobb County, Georgia and being known as 313 Marble Mill Road and being zoned HI (Heavy Industrial). Ward 5.

Mayor Dunaway opened the public hearing. City Attorney Douglas Haynie explained the rules of order and swore in those wishing to speak.

Jimmy Waters with MRW Properties, LLC requested a Special Land Use Permit for property located at 313 Marble Mill Road and being zoned HI (Heavy Industrial) in order to operate a plastic recycling facility. Mr. Waters presented a site plan showing the proposed layout and flow of operation for the facility. Along with the Letter of Stipulations, Mr. Waters also requested a variance to allow the existing "crush and run" pervious surface to remain in place.

Discussion was held regarding the stipulations submitted by the applicant.

Speaking in opposition:

Phyllis Baker, who resides at 966 James Street, Marietta.

Sarah Hardin, who resides 915 Lee Drive, Marietta.

Further discussion was held, specifically regarding the noise concern of the adjacent property owners. Mr. Waters agreed to plant an additional row of trees to the rear of the property.

Mayor Dunaway closed the public hearing.

Motion to approve the rezoning request for property located at 313 Marble Mill Road, with the following stipulations incorporated as a condition of zoning:

- The letter dated July 8, 2009 and the attached Land Use Permit Application to Rusty Roth, Zoning Manager from Mary Lanning, Director of Landscape Architecture for Civil Engineering Land Surveying.*
- The property shall be used for the storage and recycling of plastics only. The plastics shall be clean and free of any food particles.*
- The layout of the facility shall be site plan specific.*
- All materials not located inside the building or truck trailers shall be located in the sorting bins for a period of no more than two weeks at any given time.*
- The sorting bins and truck trailers shall be covered and/or enclosed as to not hold water. The sorting bins cover shall also be constructed in a way as to not hold water.*
- All activity other than the following shall occur inside the building with the doors closed: 1) weighing of the materials on the proposed scale as shown on the site plan, 2) sorting of the materials in the sorting location, 3) movement of the materials from the sorting location to the building, 4) movement of the materials from the building to the trailers, 5) removal of the trailers.*
- The hours of operation and all activity, including deliveries, shall be from 8 am to 6 pm, Monday - Saturday.*

- There shall be no activity on the rear of the property from the property line to 150 feet inward.
- The applicant shall plant an additional row of 2 inch caliper trees on the rear of the property.
- The applicant shall treat the property for mosquitoes as needed.
- Variance granted to allow the existing "crush and run" pervious surface to remain in place.
- Variance granted to allow parking on the existing "crush and run" pervious surface.

A motion was made by Council member Goldstein, seconded by Council member King, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 6 - 1 - 0

Approved as Stipulated

Vote Against: 1 - Rev. Anthony Coleman

* **20090672**

Code Enforcement - 97 Rigby Street

[Ord 7350](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 97 Rigby Street.

Listed Owner: Louise Burke & Heirs at Large, c/o Hattie Scott

Repeat Violation History: (4) previous cases since 2000

Certified mail receipt received 06-03-09; signed by William Scott.

Taxes paid: Unpaid, in the amount of \$231.67.

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090673**

Code Enforcement - 351 McArthur Drive

[Ord 7351](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 351 McArthur Drive.

Listed Owner: Timothy Neal Weddington

Repeat Violation History: (3) previous cases since July, 2008.

Certified mail receipt not received as of 06/29/09; NOTE: refused previous letter in previous case.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090674**

Code Enforcement - 353 McArthur Drive

[Ord 7352](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 353 McArthur Drive.

Listed Owner: Timothy Neal Weddington

Repeat Violation History: (3) previous cases since July, 2008

Certified mail receipt not received as of 06/29/09; NOTE: previous case letter refused.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090679**

Code Enforcement - 1725 Crestridge Drive

[Ord 7353](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1725 Crestridge Drive.

Listed Owner: Rhodes John W Jr. & Kathleen

Repeat Violation History: (18) previous cases since 08/11/98

Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090682**

Code Enforcement - 113 Lacy Street

[Ord 7354](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 113 Lacy Street.

Listed Owner: Roselane Professional Group LLC

Repeat Violation History: (2) previous cases since 06/25/08.

Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090684**

Code Enforcement - 521 Little Street

[Ord 7355](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the

corporate limits of the City of Marietta, Georgia at 521 Little Street.

Listed Owner: Enrique Z. Santiago

Repeat Violation History: None

Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090685**

Code Enforcement - 1261 William Robert Drive

[Ord 7356](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1261 William Robert Drive.

Listed Owner: Ramon & Maria Mandujano

Repeat Violation History: (1) previous case since 04/30/09

Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090686**

Code Enforcement - 1663 Barrington Overlook

[Ord 7357](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1663 Barrington Overlook.

Listed Owner: Taesha McLean

Repeat Violation History: (1) previous case since 2008.

Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090688**

Code Enforcement - 536 Alpine Way

[Ord 7363](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 536 Alpine Way.

Listed Owner: Sandra Callahan

Repeat Violation History: (2) previous cases since 1999.

Certified mail receipt received 06/08/09; NOT signed by owner.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090689**

Code Enforcement - 600 Tom Read Drive

[Ord 7358](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 600 Tom Read Drive.

Listed Owner: Webb Jason D

Repeat Violation History: (6) cases since September, 2007.

Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090693**

Code Enforcement - 1204 Scripps Court

[Ord 7359](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1204 Scripps Court.

Listed Owner: Alexis A. Mills

Repeat Violation History: (1) previous case since 06/12/99.

Certified mail receipt received 06/17/09; not signed by Officer of First Horizon Home Loans.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

* **20090694**

Code Enforcement - 436 Powder Springs Street

[Ord 7360](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 436 Powder Springs Street.

Listed Owner: JWH Marietta LLC

Repeat Violation History: (3) previous cases since 11/20/07

Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED**This Matter was Approved on the Consent Agenda.****Vote: 6 - 0 - 1****Approved**

Abstaining: Philip M. Goldstein

*** 20090697 Code Enforcement - 1176 Roswell Road**[Ord 7361](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1176 Roswell Road.

Listed Owner: Suntrust Bank

Repeat Violation History: None

Certified mail receipt received 06/04/09; not signed by Officer or Registered Agent.

Taxes paid: Yes

PUBLIC HEARING REQUIRED**This Matter was Approved on the Consent Agenda.****Vote: 6 - 0 - 1****Approved**

Abstaining: Philip M. Goldstein

*** 20090699 Code Enforcement - 365 Pleasant Oak Court**[Ord 7364](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 365 Pleasant Oak Court.

Listed Owner: Cuacuil Esther

Repeat Violation History: (1) previous case since 11/27/07.

Certified mail receipt received 06/19/09; signature not legible.

Taxes paid: Yes

PUBLIC HEARING REQUIRED**This Matter was Approved on the Consent Agenda.****Vote: 6 - 0 - 1****Approved**

Abstaining: Philip M. Goldstein

*** 20090701 Code Enforcement - 1725 Spinks Drive**[Ord 7362](#)

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1725 Spinks Drive.

Listed Owner: Nabil Michael Mansour/Awatef T Mansour

Repeat Violation History: (2) previous cases since 12/04.

Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes

PUBLIC HEARING REQUIRED**This Matter was Approved on the Consent Agenda.**

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

*** 20090626 Opportunity Zones**

Res 1463 Approval of a Resolution of the Mayor and Council for the City of Marietta; to adopt an Urban Redevelopment Plan for three slum, blighted or underdeveloped areas within the City of Marietta, Georgia pursuant to the provisions of the Urban Development Law, O.C.G.A. Section 36-61-8; to approve an application for an opportunity zone for the area encompassed by such redevelopment plan pursuant to O.C.G.A. Section 48-7-40.1; to promote the public health, safety and welfare, and for other purposes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090636 CDBG Sub-Recipient Agreement**

c/a 3683 Approval of a Resolution authorizing the execution of the FFY'09 CDBG Sub-Recipient Agreement with Cobb County.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090637 FFY'10 CDBG Project List**

Res 1465 Approval of a Resolution authorizing the submittal of the city's FFY 2010 CDBG Final Statement Projects List to Cobb County for inclusion in their submittal to the U.S. Department of Housing and Urban Development (HUD); and further, approving any additional CDBG FFY 2010 funds the city may receive from actions by Congress be allocated to neighborhood redevelopment/housing rehabilitation or as eligible per council direction for Public Service projects.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

* **20090652 Housing Choice Voucher Program (HCV)**

Res 1466 Approval of a Resolution authorizing acceptance of the FY2009 Housing Choice Voucher Annual Plan.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

2. Finance/Investment: Annette Lewis, Chairperson

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

* **20090620 Revised Detailed Plan for North Metro Church**

Motion to approve the revised Detailed Plan for North Metro Church to allow for a new parking lot exit, with gate, onto Barrett Parkway and being located in District 20, Land Lot 0281, Parcels 4 and 33. Approval is subject to the final approval of Cobb County Department of Transportation allowing for the additional curb cut onto Barrett Parkway. Restriction as to use of access are as follows:

- 1) The access shall be gated
- 2) The gates shall remain closed at all times, especially from 7:00 a.m. to 9:30 a.m. and 4:00 p.m. to 7:00 p.m., Monday through Friday; Excepting only, that the gates may remain open and access is permitted for Church events such as Sunday worship services, Wednesday worship services, and other like events occurring at the Church.

Motion to approve with the following stipulations:

- 1) *The access shall be gated*
- 2) *The gates shall remain closed at all times, especially from 7:00 a.m. to 9:30 a.m. and 4:00 p.m. to 7:00 p.m., Monday through Friday; Excepting only, that the gates may remain open and access is permitted for Church events such as Sunday worship services, Wednesday worship services, and other like events occurring at the Church.*

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved as Stipulated

* **20090651 Advertisement of Proposed Precinct Boundary Changes**

Motion authorizing advertisement of the proposed precinct boundary changes for Wards 2, 4 & 6 requested by the Cobb County Board of Elections.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

4. Parks, Recreation and Tourism: Holly Walquist, Chairperson

* **20090625 Alcohol Sales and Consumption during Art in the Park Festival**

Motion approving the request from the Marietta Business Association to approve the sale and consumption of beer and wine adjacent to Glover Park in accordance

with ordinance 10-4-070 C. and E. during the Art in the Park Festival show hours on September 5-7, 2009.

Council member Goldstein disclosed that he is a member of the Marietta Business Association.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1 Approved

Abstaining: Philip M. Goldstein

*** 20090634 Farmer's Market**

Motion authorizing street closures for the Farmer's Market for the purposes of extending the season to Saturday, December 26.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

20090630 2005 SPLOST Re-allocation

Motion authorizing a 2005 SPLOST project budget reallocation transferring \$1,846,307 funding from project number 280-2033-535-7930-A1, Powder Springs to South Cobb Connector to project number 280-2033-535-7957-P2, Powder Springs Streetscapes as shown on the attached table as requested by Council member Grif Chalfant.

A motion was made by Council member Chalfant, seconded by Council member Walquist, to authorize a 2005 SPLOST project budget reallocation transferring \$1,846,307 funding from project number 280-2033-535-7930-A1, Powder Springs to South Cobb Connector to project number 280-2033-535-7957-P2, Powder Springs Streetscapes.

A substitute motion was made by Council member King, seconded by Council member Goldstein, to authorize a 2005 SPLOST project budget reallocation transferring \$923,154. The motion failed by the following vote:

Vote: 3 - 4 - 0 Failed

Voting Against: Holly Walquist, Van Pearlberg, Rev. Anthony Coleman, and Grif Chalfant

Comments were made by Mayor Dunaway.

A substitute motion was made by Council member Lewis, seconded by Council member King, to table this matter until such time as the Public Works Director provide proposed alternate plans for development of the Powder Springs

Streetscapes. The motion failed by the following vote:

Vote: 3 - 4 - 0

Failed

Voting Against: Holly Walquist, Van Pearlberg, Rev. Anthony Coleman, and Grif Chalfant

Mayor Dunaway called for a vote on the original motion.

Motion to authorize a 2005 SPLOST project budget reallocation transferring \$1,846,307 funding from project number 280-2033-535-7930-A1, Powder Springs to South Cobb Connector to project number 280-2033-535-7957-P2, Powder Springs Streetscapes.

A motion was made by Council member Chalfant, seconded by Council member Walquist, that this matter be Approved. The motion carried by the following vote:

Vote: 4 - 3 - 0

Approved

Vote Against: Jim King, Philip M. Goldstein and Annette Lewis

*** 20090710**

South Marietta Parkway/Powder Springs St. and Whitlock Ave. 2005 SPLOST Improvements

Motion approving a concept drawing for 2005 SPLOST improvements along South Marietta Parkway between Powder Springs Street and Whitlock Avenue as shown on map on file with the Public Works Department labeled "Approved July 8, 2009."

Council member Goldstein disclosed that he owns property fronting South Marietta Parkway between Mill Street and Polk Street and fronting on Mill Street.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

*** 20090711**

South Marietta Parkway between Whitlock Ave. and Polk Street 2005 SPLOST Improvements

Motion approving a concept drawing for 2005 SPLOST improvements along South Marietta Parkway between Whitlock Avenue and Polk Street as shown on map on file with the Public Works Department labeled "Approved July 8, 2009."

Council member Goldstein disclosed that he owns property fronting South Marietta Parkway between Mill Street and Polk Street and fronting on Mill Street

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 - 1

Approved

Abstaining: Philip M. Goldstein

*** 20090712**

South Marietta Parkway between Polk St. and Kennesaw Ave. 2005 SPLOST Improvements

Motion approving a concept drawing for 2005 SPLOST improvements along South Marietta Parkway between Polk Street and the Kennesaw Avenue Overpass as shown on map on file with the Public Works Department labeled "Approved July 8, 2009."

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

Theatre in the Square

20090632

Motion approving a request by Theatre in the Square to encroach on city right-of-way to support three (3) columns to support a new building facade and marquee (each column shall encroach into the sidewalk by 18" and shall have footings underneath the sidewalk which shall encroach 24". Approval is also granted for an existing encroachment at the location of the box office of 24". This approval is conditioned upon the receipt of Indemnity Agreements approved by the City Manager and City Attorney. This item was requested to go on the agenda by Mayor Bill Dunaway.

Council member Goldstein disclosed that he is the landlord for the Theatre in the Square and he abstains on matters dealing with Theatre in the Square. Council member Goldstein then left the Council Chamber.

A motion was made by Council member King, seconded by Council member Lewis, to approve a request by Theatre in the Square for a Temporary Revocable License Agreement to encroach on city right-of-way to support three (3) columns to support a new building facade and marquee (each column shall encroach into the sidewalk by 18 inches. This approval is conditioned upon the receipt of Indemnity Agreement approved by the City Manager and City Attorney.

Comments were made by Council member Pearlberg and Mayor Dunaway. Discussion was also held by other Council members regarding the Indemnity Agreement.

A motion was made by Council member King, seconded by Council member Lewis, that this matter be Approved as Stipulated. The motion failed by the following vote:

Vote: 4 - 3 - 0

Approved as Stipulated

Vote Against: Van Pearlberg, Grif Chalfant and Rev. Anthony Coleman
Absent: Philip M. Goldstein

(Mayor Dunaway voted on this matter due to a tie vote)

Council member Goldstein returned to the Council Chamber.

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

Mary West, who resides at 260 White Street, thanked the City Council for approving an ordinance prohibiting smoking in Glover Park.

Bill Bolton, who resides at 2104 Drogheda Lane, spoke regarding an article in the Marietta Daily Journal by Mr. Larry Wills regarding the spending of Tax Allocation money.

Council member King commented on how well the Council committee system works using the example of agenda item 20090630, the 2005 SPLOST Re-allocation.

OTHER BUSINESS:

- * **20090666** **Department of Justice Grant**
[Ord 7347](#) Budget Amendment for Stimulus Grant from the United States Department of Justice in the amount of \$230,918.00.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 **Approved**

* **20090698** **Marietta Redevelopment Corporation Officers**
Request for approval of appointments for Ron Francis as Chairman and Terry Lee as Vice Chairman of the Marietta Redevelopment Corporation, as recommended by the Board.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 **Approved**

* **20090705** **Smoking in Glover Park**
[Ord 7348](#) Approval of an Ordinance adding Section 10-4-210 of the code of Marietta, Georgia, "Smoking Prohibited". Section 1: Section 10-4-210 shall read as follows:
It shall be unlawful for any person to inhale, exhale, burn, or carry any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or form in Glover Park.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 **Approved**

* **20090726** **Personnel Rules and Regulations - Smoking Policy**
[Ord 7349](#) Approval of an Ordinance amending City Code Sections 4-4-36-030 so as to update the Smoking Policy in the Personnel Rules and Regulations.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 **Approved**

* **20090468** **V2009-13 Saima Ahmed 68 Black Street**
V2009-13 [VARIANCE] SAIMA AHMED request a variance for property located in Land Lot 12150, 16th District, Parcel 0690, 2nd Section of Cobb County, Marietta, Georgia and being known as 68 Black Street.

Variance to allow impervious surface encroachment within a required planted border area. Ward 5.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

20090616 V2009-14 Steven R. Smith, CB Richard Ellis, 1860 Cobb Parkway South

V2009-14 [VARIANCE] STEVEN R. SMITH, CB RICHARD ELLIS (FOR VOLKSWAGEN GROUP OF AMERICA) request variance for property located in Land Lot 710, District 17, Parcel 040, 2nd Section of Cobb County, Marietta, Georgia and being known as 1860 Cobb Parkway South. Variance to allow a nonconforming sign to remain on a parcel in which there will be a renovation of the primary structure exceeding 50% of its replacement cost. Ward 1.

Mayor Dunaway called forward those wishing to speak regarding this matter.

Steven Smith and CB Richard Ellis, representing the applicant, requested a variance for property located at 1860 Cobb Parkway South to allow a nonconforming sign to remain on a parcel in which there will be a renovation of the primary structure exceeding 50% of its replacement cost.

Discussion was held.

Motion to deny the variance request.

A motion was made by Council member King, seconded by Council member Lewis, that this matter be Denied. The motion carried by the following vote:

Vote: 6 - 1 - 0

Denied

Vote Against: 1 - Van Pearlberg

*** 20090660 V2009-15 Gabriel's Desserts/Candler Development 800 Whitlock Ave, Suite 135**

The tree shall be located elsewhere on the property. Additionally, the entire site shall remain subject to the Tree Ordinance.

Motion to approve this matter with the following stipulations: The tree shall be located elsewhere on the property. Additionally, the entire site shall remain subject to the Tree Ordinance.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090724 317 N. Fairground Street**

Motion to authorize the acquisition of property owned by Ms. Jessie Edward Wheatcroft on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein

by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090725**

690 Powder Springs Road

Motion to authorize the acquisition of property owned by RS of Georgia on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090709**

BLW Actions of July 6, 2009

Review and approval of the July 6, 2009 actions and minutes of the Marietta Board of Lights and Water Works (BLW).

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

ADJOURNMENT:

The meeting was adjourned at 9:09 p.m.

Date Approved: 08/12/09

William B. Dunaway, Mayor

Attest: _____
Stephanie Guy, City Clerk